

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**In Re:
THE VAUGHAN COMPANY, REALTORS
Debtor(s).**

JUDITH A. WAGNER,

Plaintiff,

Master Case No. 12-cv-0817 WJ/SMV

v.

(USDC Case No. 12-cv-0636 WJ/SMV)

LOIS ARIIO,

Defendant.

**ORDER DENYING MOTION TO APPEAR TELEPHONICALLY
BUT ALLOWING APPEARANCE BY VIDEO CONFERENCE**

THIS MATTER is before the Court on Defendant[’s] Motion to Appear Telephonically [at the Settlement Conference] [Doc. 193], filed on December 27, 2012. Plaintiff opposes Defendant’s telephonic appearance but would agree to video conferencing. Response [Doc. 196]. In her Reply, Defendant “expect[ed] that any video conference would be a financial hardship on her.” [Doc. 198] at 2. However, at the hearing on the motion on January 16, 2013, Defense counsel agreed to Defendant’s appearance by video conference. Clerk’s Minutes [Doc. 201] at 1. The Court, being fully advised in the premises, FINDS that the Motion is not well-taken and should be denied to the extent that Defendant seeks to appear telephonically. However, Defendant may appear by video conference provided that she is present by such video conference for the entire duration of the mediation and provided that her counsel has coordinated the technology in advance of the settlement conference.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Defendant[’s] Motion to Appear Telephonically [at the Settlement Conference] [Doc. 193] is **DENIED**. However, Defendant Ario may appear by video conference contingent on her being present by such video conference for the entire duration of the mediation.

IT IS FURTHER ORDERED that Defense counsel shall be responsible for ensuring that the video-conference room at the Albuquerque courthouse and the appropriate technology are available and working for the settlement conference.

IT IS FURTHER ORDERED that if the video conferencing does not work for reasons that could have been, but were not, worked out in advance, Defendant may be subject to payment of attorney fees.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge